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DEPARTMENT OF TRANSPORTATION

4910-15-PM

Coast Guard

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33 CFR Part 165

USCG-00-6822-16

[CGD 05-99-099]

RIN 2115-AA97

Safety Zone; Eastern Branch Elizabeth River, Harbor Park,
Norfolk, VA.

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the waters of the Eastern Branch of the Elizabeth River within a 1000 foot radius of a fireworks laden barge at Harbor Park, in approximate position 36° 50' 26"N 076° 16' 45"W, in Norfolk, VA. The safety zone is intended to restrict maritime traffic in order to protect mariners and spectators from the hazards associated with the fireworks display.

DATES: This rule is effective from 10:00 p.m. to 11:00 p.m. on December 31, 1999.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD 05-99-099] and are available for inspection or copying at USCG Marine Safety Office Hampton Roads, 200 Granby Street, Norfolk, VA, between 8 a.m. and 4 p.m., Monday through

Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Petty Officer Roddy Corr, project officer, USCG Marine Safety Office Hampton Roads, telephone number (757) 441-3290.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. The Coast Guard received the request for this safety zone on December 20, 1999. There was not sufficient time to publish a proposed rule in advance of the event. Publishing a NPRM and delaying the effective date of the regulation would be contrary to the public interest, because immediate action is necessary to protect the vessels and spectators from the hazards associated with the fireworks display.

Background and Purpose

The Coast Guard is establishing a temporary safety zone for Norfolk's Grand Millennium Celebration fireworks display, to be held on a deck barge moored on the Eastern Branch of the Elizabeth River, Harbor Park, Norfolk, VA. The safety zone will restrict vessel traffic on a portion of the Eastern Branch of the Elizabeth River within a 1000 foot radius of the fireworks barge located in approximate

position 36° 50' 26"N 076° 16' 45"W. The safety zone is necessary to protect mariners and spectators from the hazards associated with the display. The safety zone is effective from 10:00 p.m. until 11:00 p.m. on December 31, 1999. Entry into this safety zone is prohibited unless authorized by the Captain of the Port Hampton Roads. Public notifications will be made prior to the event via local notice to mariners and marine information broadcasts.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). This temporary final rule only effects a limited area of the Eastern Branch of the Elizabeth River for only one hour. The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-602), we considered whether this temporary final rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises

small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only one hour and only affects the limited area of the waters of the Eastern Branch of the Elizabeth River adjacent to Harbor Park.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) governs the issuance of Federal regulations that

require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34)(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. This regulation will have no impact on the

environment.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), reporting and recordkeeping requirements, security measures, waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR 165 as follows:

Part 165 - [Amended]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-6, and 160.5; 49 CFR 1.46.

2. A new temporary section 165.T05-099 is added to read as follows:

165.T05-099 Safety Zone; Eastern Branch Elizabeth River, Harbor Park, Norfolk, VA

(a)Location. The following area is a safety zone: All waters of the Eastern Branch of the Elizabeth River within 1000 feet of the fireworks barge moored at Harbor Park in approximate position 36° 50' 26"N 076° 16' 45"W. All coordinates reference Datum NAD 1983.

(b)Effective Date. This section is effective from 10:00 p.m. until 11:00 p.m. on December 31, 1999.

(c)Definition. Captain of the Port means the Commanding Officer of Marine Safety Office Hampton Roads, Norfolk, VA or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on

his behalf.

(d) Regulations.

(1) All persons are required to comply with the general regulations governing safety zones in section 165.23 of this part.

(2) Persons or vessels requiring entry into or passage through the safety zone must first request authorization from the Captain of the Port. The Coast Guard vessels enforcing the safety zone can be contacted on VHF marine band radio, channels 13 and 16. The Captain of the Port can be contacted at telephone number (757)441-3290.

(3) The Captain of the Port will notify the public of changes in the status of this zone by Marine Safety Radio Broadcast on VHF marine band radio, channel 22 (157.1 MHz).

Dated: DEC 23 1999

A handwritten signature in cursive script, reading "J. E. Schrinner". The signature is written in dark ink and is positioned above the printed name and title.

J. E. SCHRINNER
Captain, U.S. Coast Guard
Captain of the Port Hampton Roads